

**MAR 15 2006**

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U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

IRSHAD ALI,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 03-74674

Agency No. A79-271-302

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted March 8, 2006<sup>\*\*</sup>

Before: CANBY, BEEZER and KOZINSKI, Circuit Judges.

Irshad Ali, a native and citizen of Fiji, petitions pro se for review of the Board of Immigration Appeals' ("BIA") decision affirming an immigration

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

judge's ("IJ") order denying his applications for asylum and withholding of removal. To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252. We review for substantial evidence the BIA's determinations, and any findings by the IJ that are adopted by the BIA. *Molina-Estrada v. INS*, 293 F.3d 1089, 1093 (9th Cir. 2002). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the BIA's determination that no extraordinary circumstances excused Ali's untimely filing of his application for asylum. *See id.*; *Ramadan v. Gonzales*, 427 F.3d 1218, 1221 (9th Cir. 2005).

Although Ali presents evidence of past physical harm, the record does not compel the finding of a clear probability of persecution upon his return to Fiji. *See Faruk v. Ashcroft*, 378 F.3d 940, 944 (9th Cir. 2004). Accordingly, the BIA's denial of withholding of removal is supported by substantial evidence. *See Al-Harbi v. INS*, 242 F.3d 882, 888-89 (9th Cir. 2001).

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**